

Expedited Bill No. 6-09
Concerning: Home Energy Loan
Program - Establishment
Revised: 4/14/2009 Draft No. 8
Introduced: February 24, 2009
Expires: August 24, 2010
Enacted: April 14, 2009
Executive: April 22, 2009
Effective: April 22, 2009
Sunset Date: None
Ch. 8, Laws of Mont. Co. 2009

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner, Elrich, Ervin, Trachtenberg, Floreen, and Leventhal

AN EXPEDITED ACT to:

- (1) establish a Home Energy Loan Program to assist single-family homeowners to make an energy efficiency improvement or install a renewable energy device;
- (2) establish a revolving loan fund to provide homeowners loans under the Program;
and
- (3) generally amend the environmental sustainability law.

By adding

Montgomery County Code
Chapter 18A, Environmental Sustainability
Article 4, Home Energy Loan Program

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Chapter 18A, Article 4 is added as follows:**

2 **Chapter 18A. Environmental Sustainability**

3 * * *

4 **Article 4. Home Energy Loan Program**

5 **18A-24. Definitions.**

6 In this Article, except as provided in Section 18A-30, the following words
7 have the meanings indicated:

8 Certified energy auditor means any individual who:

9 (a) is a participating contractor/auditor with the Maryland Home
10 Performance with ENERGY STAR Program; or

11 (b) meets other equivalent requirements approved by the Director.

12 Cost effective means the maximum estimated amount of time it takes for an
13 energy efficiency improvement to pay for itself through reduced energy costs
14 (the "payback" period), as determined by the Department.

15 Department means the Department of Environmental Protection.

16 Director means the Director of the Department or the Director's designee.

17 Eligible cost means the net cost of buying or installing an energy efficiency
18 improvement or renewable energy device, including any part, component, or
19 accessory necessary to operate the improvement or device, less any amount
20 received from a public or private program because the improvement or device
21 is or will be made or installed.

22 Energy efficiency improvement means a permanent improvement made to an
23 existing single-family home that:

24 (a) reduces the consumption of energy in the home, including:

25 (1) caulking and weatherstripping doors and windows;

26 (2) heating and cooling system efficiency modifications, including:

- (A) replacing a burner, furnace, heat pump, or boiler, or air conditioner with a high efficiency model;
- (B) a device to modify flue openings that increases the energy efficiency of the heating system;
- (C) any electrical or mechanical furnace ignition system which replaces a standing gas pilot light; and
- (D) any tune-up that increases the operating efficiency;
- (3) a programmable thermostat;
- (4) ceiling, attic, wall, or floor insulation;
- (5) whole house air sealing;
- (6) water heater tune-up, water heater insulation, pipe insulation, or [[charge-out]] change out to ENERGY STAR qualified water heater;
- (7) storm windows or doors or ENERGY STAR qualified window or door replacement;
- (8) air distribution system improvements, including duct insulation and air sealing;
- (9) any device which controls demand of appliances and aids load management; and
- (10) any other conservation device, renewable energy technology, and specific home improvement that the Director finds reduces the consumption of energy in the home; and
- (b) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device, if these standards are available.
- Energy efficiency improvement does not include a standard household appliance, such as a washing machine or clothes dryer.

ENERGY STAR rating means the ENERGY STAR rating developed by the federal Environmental Protection Agency which rates a product's energy efficiency.

Home energy audit means an evaluation of the energy efficiency of a home which includes any test or diagnostic measurement that the Department finds necessary to:

- (a) assure that a home's energy efficiency is accurately measured; and
- (b) identify cost effective steps that can be taken to improve a home's energy efficiency.

Home Energy Loan Fund or Fund means the revolving loan fund established under Section 18A-30 to provide funding for the Home Energy Loan Program.

Home Energy Loan Program or Program means the program that provides zero or low interest loans to install an energy efficiency improvement or renewable energy device.

Home Energy Rating System or HERS means the energy efficiency rating system for residential buildings developed by the Residential Energy Services Network.

Low interest loan means a loan with an interest rate below prevailing rates for residential home improvement loans, and which reflects:

- (a) the County's current cost of borrowing funds or the cost, if any, of federal funds made available to the County for this purpose; and
- (b) the cost of administering the Program.

Renewable energy means the following energy sources or technology:

- (a) solar;
- (b) wind;
- (c) geothermal; and

(d) any other energy source or technology which the Director finds is derived from natural processes that do not involve the consumption of exhaustible resources.

Renewable energy device means a device that:

- (a) creates, converts, or actively uses renewable energy;
- (b) is permanently installed on the home or property; and
- (c) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device, if these standards are available.

Single-family home means a single-family detached or attached residential building. A single-family home includes a condominium.

18A-25. Established; purpose.

The Director must create and administer a Home Energy Loan Program to:

- (a) improve energy efficiency;
- (b) promote energy conservation;
- (c) reduce greenhouse gas emissions; and
- (d) reduce consumption of fossil fuels by County residents[[]]; and
- (e) create jobs.

18A-26. Eligibility; use of funds.

- (a) The Director may loan funds to an owner of a single-family home to fund eligible costs to make an energy efficiency improvement that is projected to be cost effective or install a renewable energy device in the single-family home, up to the maximum loan amount set by regulation.
- (b) To be eligible for a loan under this Program, a property owner must:
 - (1) have a home energy audit performed on the owner's single-family home by a certified energy auditor, as required under Section 18A-27; and

- 1107 (2) have the energy efficiency improvement completed or renewable
 1108 energy device installed [[within 6 months after receiving the
 1109 loan]] in the timeframe set by regulation; and
- 1110 (3) agree to repay the loan amount borrowed through the County tax
 1111 bill for that home, as required by Section 18A-28.
- 1112 (c) The Department of Permitting Services must certify that the
 1113 improvement or device for which the funds were loaned has been
 1114 properly installed. The Department must accept a certification by
 1115 another government agency, including a municipality, that the
 1116 improvement or device has been [[property]] properly installed. The
 1117 County Executive may assign the responsibility under this subsection to
 1118 another entity, including a third party. However, the entity responsible
 1119 for certifying that the improvement or device has been properly installed
 1120 must not be the entity that installed the improvement or device.
- 1121 (d) The term of the loan must be 15 years[[.]] [[unless]]. However, the
 1122 Director [[sets a different]] may set a longer loan term by regulation.
- 1123 (e) Use of funds for an energy efficiency improvement.
- 1124 (1) A person may borrow funds for eligible costs to make an energy
 1125 efficiency improvement, less any amount received from a public
 1126 or private program because the improvement is or will be made.
- 1127 (2) Except as provided by subsection [[f(2)]] (e)(3), funds must be
 1128 loaned only for an energy efficiency improvement that is
 1129 projected to be cost effective.
- 1130 (3) Funds may be loaned for an energy efficiency improvement that
 1131 is not cost effective if that improvement is part of a package of
 1132 improvements financed under the Program that cumulatively is
 1133 cost effective.

(f) Use of funds for a renewable energy device.

(1) [[A]] Except as provided in (f)(2), a person may borrow funds for eligible costs to install a renewable energy device only if[:

(A) the single-family home has a HERS score of 100 or below;
or

(B) the owner has a home energy audit performed on the owner's home and, based on the audit recommendations, makes energy efficiency improvements that result in a 30 percent increase in efficiency]] the single-family home meets energy efficiency criteria established by the Department.

(2) A person may borrow funds to install a renewable energy device on a single-family home that does not meet the energy efficiency criteria in (f)(1) if the device is cost effective.

(3) A person may borrow funds for eligible costs to install a renewable energy device, less any amount received from a public or private program because the device is or will be installed.

[[3) A person must not borrow funds to install a renewable energy device if that person receives a property tax credit for renewable energy devices under Section 52-18R.]]

18A-27. Home energy audit.

(a) An applicant for a loan under this Program must have and submit to the County a home energy audit performed on the owner's home by a certified energy auditor.

(b) The auditor must prepare a written report that:

(1) contains findings and recommendations to improve the home's energy efficiency;

(2) identifies those cost effective energy efficiency improvements which would generate projected annual energy cost savings, based on projected energy costs set by Method (3) regulation, that are equal to or more than the estimated cost of the improvements to be financed under the County Program when the cost of the improvements are amortized over 15 years; and

(3) identifies any public or private financing mechanisms known to the auditor that could be used to implement energy efficiency improvements.

(c) The cost of the audit may be included in the amount of the loan.

18A-28. Repayment of funds; lien.

(a) The owner of single-family home must agree to repay the loan amount borrowed, amortized over 15 years, through the County property tax bill for that home.

(b) If the owner of the single-family home sells the home, the seller must disclose that the buyer must continue to repay the loan through the property tax bill.

(c) The loan amount and any accrued interest constitute a first lien on the real property to which the loan applies until paid. The loan amount and accrued interest are collectable by suit or tax sale like all other real property taxes, to the extent allowed by State law. [[In the event of a failure to]] If the property owner does not pay the loan and accrued interest as required, the property may be certified to the Department of Finance and the lien may be sold at the tax sale conducted by the County. [[The deferred fees constitute a personal liability of the owner of the property.]]

187 **18A-29. Regulations.**

188 The Executive must adopt regulations under Method (2) to administer the
 189 Program, including:

- 190 (a) lending standards and priorities;
- 191 (b) minimum and maximum loan amounts;
- 192 (c) interest rates, terms, and conditions;
- 193 (d) application procedures, including necessary supporting documentation;
- 194 (e) criteria for adequate security;
- 195 (f) procedures to refer applicants to other sources of funds, and to
 196 cooperate with other public and private sources of funds;
- 197 (g) procedures to ask the Director to reconsider any denial of a loan or any
 198 decision on interest rates, terms, and conditions;
- 199 (h) procedures for nonpayment or default;
- 200' (i) procedures and requirements for post-installation inspection; [[and]]
- 201 (j) disclosure requirements for real estate transactions[.]; and
- 202 (k) criteria for loan disbursement.

203 **18A-30. Revolving loan fund.**

204 (1) Definitions. In this Section, the following words have the meanings
 205 indicated:

206 Department means the Department of Finance.

207 Revolving loan fund or Fund means the special, nonlapsing fund to
 208 finance the Home Energy Loan Program established under this Article.

209 (b) The Fund consists of:

- 210 (1) money appropriated in the County budget for the Program;
- 211 (2) money received from any public or private source;
- 212 (3) interest and investment earnings on the Fund;

213 (4) repayments and prepayments of principal and interest on loans
 214 made from the Fund; and

215 (5) any other available funds to support the Program.

216 (c) The Department must:

217 (1) disburse funds and collect payments for a loan made under the
 218 Program; and

219 (2) maintain loan records and provide an annual report to the
 220 Department of Environmental Protection.

221 **18A-31. Annual report.**

222 Each August 15, the Director must submit a report to the County Executive
 223 and County Council that identifies;

224 (a) the number of recipients of loans;

225 (b) the amount of funds loaned; and

226 (c) any activities during the previous fiscal year to market the Program.

227 **18A-32. Third party contract.**

228 (a) The County may contract with a non-profit or for-profit organization to
 229 take any action necessary to fulfill the purposes of this Article,
 230 including:

231 (1) prepare and review, evaluate, and approve applications;

232 (2) execute loan agreements;

233 (3) secure and service loans;

234 (4) collect loan payments; and

235 (5) conduct collections for defaulted loans.

236 (b) The County, or a contractor for the County, may charge an applicant or
 237 borrower usual and customary fees that the Department finds is
 238 consistent with the overall goals of the Program and will not inhibit
 239 utilization of the Program, including:

- 240 (1) application fees;
- 241 (2) loan origination fees;
- 242 (3) delinquency fees;
- 243 (4) costs of collection; and
- 244 (5) other program fees to support verification of program
- 245 requirements.

246 **Sec. 2. Initial regulations; repayment options; audit cost.**

247 (a) [[The]] Unless the Council grants an extension, the County Executive
 248 must adopt and submit to the County Council, not later than (date [[3]] 6
 249 months after enactment of bill), regulations to implement Article 4 of
 250 Chapter 18A, as added by Section 1 of this Act.

251 (b) Within 6 months, the Executive must:

- 252 (1) report to the Council if the Executive believes that the repayment
- 253 provisions of §18A-28 are likely to unduly burden the lending
- 254 industry or hinder homeowners from obtaining financing to
- 255 refinance or purchase a home; and
- 256 (2) provide alternative recommendations, if appropriate, that would
- 257 achieve the policy objective of assuring that the remaining loan
- 258 payments will be assumed by the buyer of a property.

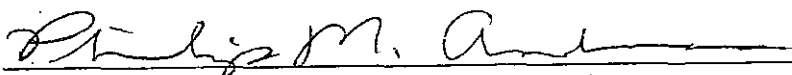
259 (c) Within 6 months, the Executive must:

- 260 (1) report to the Council on whether the cost of the home energy
- 261 audit required under §18A-27 is likely to be a significant barrier
- 262 to participation in the Program; and
- 263 (2) provide recommendations to address any barrier that the
- 264 Executive identifies.

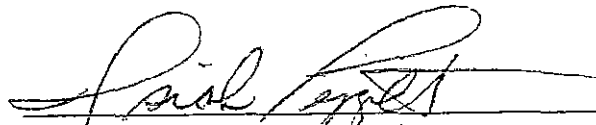
265 **Sec. 3. Expedited Effective Date.**

266 The Council declares that this legislation is necessary for the immediate
267 protection of the public interest. This Act takes effect on the date on which it
268 becomes law.

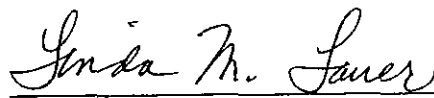
269 *Approved:*

270  April 16, 2009
Philip M. Andrews, President, County Council Date

271 *Approved:*

272  April 22, 2009
Isiah Leggett, County Executive Date

273 *This is a correct copy of Council action.*

274  April 24, 2009
Linda M. Lauer, Clerk of the Council Date